Calendar No. 897

98TH CONGRESS
2d Session

SENATE

REPORT
98–464

IDAHO FOREST MANAGEMENT ACT OF 1984

MAY 18 (legislative day, MAY 14), 1984.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2457]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2457) to designate certain national forest system lands in the State of Idaho for inclusion in the National Wilderness Preservation System and to release other forest lands for muliple-use management, and for other purposes, having considered the same, reports favorably thereon with amendments to the text and recommends that the bill, as amended do pass.

The amendments are as follows:

1. On page 5, strike lines 20 thru 22 and insert in lieu thereof: "Secesh Wilderness—Proposed," dated April 1984, and which shall be known as the Secesh Wilderness;

2. On page 5, line 23, delete all of part (7) through page 6, line 7, and insert in lieu thereof:

> (7) certain lands in the Sawtooth National Recreation Area which comprise approximately one hundred and forty-five thousand nine hundred and seventy acres as generally depicted on a map entitled, "White Cloud Wilderness—Proposed", dated March 1984, and which shall be known as the White Cloud Wilderness and shall be administered in accordance with the Wilderness Act (78 Stat. 890) as provided in section 103 of this Act, or the Act of August 22, 1972 which established the Sawtooth National Recreation Area (Public Law 92–400), whichever is more restrictive: *Provided*, That nothing in this Act shall affect the value of any valid existing rights which may have existed under the mining laws of the United States prior to August 22, 1972;

3. Beginning on page 7, line 20, delete all of section 201 and all of section 202, through page 9, line 11, and insert in lieu thereof:

SEC. 201. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in Idaho and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Idaho, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Idaho;

(2) with respect to the national forest system lands in the State of Idaho which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Idaho reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Idaho are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources

Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Idaho for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term 'revision' shall not include an 'amendment' to a plan.

(d) The provisions of this section shall also apply to:

(1) those national forest system roadless areas in the State of Idaho which were evaluated in any unit plan or which are being managed pursuant to a multiple use plan; and

(2) national forest system roadless lands in the State of Idaho which are less than 5,000 acres in size.

PURPOSE OF THE MEASURE

S. 2457, as reported seeks to resolve the RARE II issue in Idaho by designating nine areas totaling approximately five hundred and twenty-six thousand sixty-four (526,064) acres of national forest system lands in the State as wilderness. The bill would make other lands available for uses other than wilderness and would bar judicial review of the RARE II Environmental Impact Statement as it applies to Idaho. The bill also—

directs the Secretary of Agriculture to insure that livestock grazing in Idaho wilderness areas is managed in full accord with provisions on the Wilderness Act of 1964;

recognizes the established right of the State of Idaho to manage the water, fish and wildlife within the State;

prohibits protective perimeters or buffer zones around wilderness areas within the State of Idaho;

provides for the continued assessment by the Department of the Interior of mineral potential in wilderness areas in the State of Idaho;

provides authority for the Secretary of the Interior to acquire by alternative methods, valid existing mineral interests which may exist in the White Clouds Wilderness;

provides for the continued use of aircraft and aircraft landing fields where such use was previously established; and

provides for an inventory to be conducted of all buildings and other structures within wilderness areas designated in the State of Idaho by this bill and requires a report to Congress on the inventory and recommended actions with respect to such buildings and structures.

BACKGROUND AND NEED

In June 1977, the U.S. Forest Service instituted its second roadless area review and evaluation (RARE II). This program was intended to survey the roadless and undeveloped areas within the National Forest Service and to distinguish areas suitable for wilderness designation from those most appropriate for other uses. The areas recommended for wilderness would be candidates for addition to the National Wilderness Preservation System by Congressional action. The remaining roadless lands were allocated to nonwilderness, for uses determined under the multiple-use planning process, or were allocated to further study.

In his proposals for RARE II lands made in April 1979, President Carter made final recommendation to Congress based on the review of 2,919 identified roadless areas encompassing 62 million acres in the national forest system, including the National Grasslands. The past Administration recommended that wilderness designation be given to approximately 15.4 million acres of the original 62-million-acre roadless inventory. Another 10.8 million acres of roadless lands were determined to require further planning before decisions could be made on their management. The balance of the areas—totaling about 36 million acres—were allotted for non-wilderness, multiple-used management.

Soon after the completion of RARE II, the State of California brought suit against the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Final Environmental Statement as it relates to more than 40 areas in the State of California. In January 1980, Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in the *State of California* v. *Bergland*, 483 F. Supp. 465 (1980), held that the RARE II Final Environmental Statement had insufficiently considered the wilderness alternative for the specific areas challenged. Judge Karlton enjoined any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values in compliance with the National Environmental Policy Act was completed by the Department of Agriculture.

The Ninth Circuit Court of Appeals issued a decision October 22, 1982, on the RARE II California suit, *California* v. *Block*. The decision generally upheld the district court's view that the Forest Service RARE II Final Environmental Impact Statement (EIS) was inadequate as to the challenged areas.

While the court decision affects only the State of California, there has been considerable concern that similar suits might be filed in other States. Such an occurrence would seriously disrupt the management of the national forest system.

The RARE II process during 1977–79 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act of 1976. That process requires that the land plans be revised periodically to provide for a variety of uses including wilderness. In conjunction with the National Environmental Policy Act, NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System must be considered during the planning process for those lands which may be suited for wilderness. The Forest Service is presently developing the initial, or "first-generation" plan for each national forest. These are the so-called "section 6" plans and are to be completed by September 30, 1985. As one of the goals of RARE II was to consider the wilderness potential of all national forest roadless areas, the Forest Service regulations for implementing the National Forest Management Act (36 CFR 219.12 (3), Federal Register, September 17, 1979, pg. 53988) provide that lands designated by RARE II for multiple uses other than wilderness need not again be considered for wilderness in the course of developing the "first generation" plans.

Idaho has 20,427,445 acres in the national forest system. Of those acres, 3,878,788 acres are already in the National Wilderness Preservation System. During the second roadless area review and evaluation (RARE II) the Forest Service identified 7,685,498 acres in the State as having wilderness potential. In 1980, Congress passed the Central Idaho Wilderness bill which designated 2,230,109 acres as the River of No Return Wilderness. This acreage included some lands that had not been identified in the RARE II process as having wilderness potential.

The remaining RARE II areas and the recommendations for those areas made by the Carter Administration in April 1979, include 1,118,100 acres recommended for wilderness classification, 641,000 acres recommended for further planning, and 4,771,862 acres recommended for uses other than wilderness.

S. 2457, as reported, would add 526,064 acres to bring the total areas in the National Wilderness Preservation System in the State of Idaho to 4,404,852 acres or 22 percent of all national forest system lands in Idaho.

LEGISLATIVE HISTORY

S. 2457 was introduced by Mr. McClure (for himself and Mr. Symms) on March 21, 1984. Field hearings on the Idaho RARE II recommendations were held prior to introduction of S. 2457 in Boise, Idaho Falls, Coeur d'Alene, and Lewiston, Idaho in August 1983. A hearing on S. 2457 was held in Washington, D.C., before the Subcommittee on Public Lands and Reserved Water, on April 3, 1984. The Administration supports S. 2457, if amended. At a business session on May 2, 1984, the Committee on Energy and Natural Resources ordered S. 2457, as amended, to be reported favorably.

Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on May 2, 1984, by a unanimous vote of a quorum

present recommended that the Senate pass S. 2457, if amended, as described herein.

The rollcall vote on reporting the measure was 21 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield	
Mr. Weicker [1]	
Mr. Domenici [1]	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski [1]	
Mr. Nickles [1]	
Mr. Hecht	
Mr. Chafee	
Mr. Heinz [1]	
Mr. Evans	
Mr. Johnston [1]	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum [1]	
Mr. Matsunaga	
Mr. Melcher	
Mr. Tsongas [1]	
Mr. Bradley	
Mr. Levin [1]	

[1] Indicates voted by proxy.

COMMITTEE AMENDMENTS

The Committee adopted three amendments to S. 2457 as introduced. The amendments are as follows:

1. The first amendment changes the name of a wilderness from North Lick Creek Wilderness to Secesh Wilderness. Secesh is the name traditionally used to identify the area as it includes the Secesh River drainage.

2. The second amendment applies more restrictive land use provisions to the proposed White Clouds Wilderness area. The White Clouds are currently in the Sawtooth National Recreation Area (NRA). The legislation establishing the NRA has restrictive provisions on activities such as mining. In some cases, these provisions are more restrictive than provisions of the Wilderness Act of 1964. (78 Stat. 892). The amendment provides that as between the provisions of the NRA legislation and the Wilderness Act, the more restrictive provisions will be applied to the proposed White Clouds Wilderness.

3. The last amendment substitutes "release" language which is needed to resolve wilderness and other land management issues in the State of Idaho.

"Release/sufficiency" language has been incorporated by the Congress in several State wilderness bills enacted over the past several years. That language statutorily confirmed the April 1979, administrative "release" of certain RARE II nonwilderness recommended lands

and released other lands not designated as wilderness or wilderness study. This was commonly referred to as "Colorado release".

The language continued to trouble a number of affected industry groups, and in an effort to address their concerns, the Committee has made clarifications in the statutory language found in section 201. The Committee wishes to further clarify the purpose and intent of the provisions of this section and elaborate on certain issues not specifically discussed in previous bills.

The question of "release" i.e., making lands available for nonwilderness management and possible development arises from the interest in the future management of areas reviewed during the RARE II process. The controversy focuses on the point at which those lands not designated as wilderness upon enactment of this Act but reviewed in the RARE II process can again be considered for possible recommendation to the Congress for designation as wilderness, and on the question of how these lands will be managed.

The "sufficiency" aspect of this question arose because of a decision in Federal District Court in California.

While the decision applied specifically only to the 46 roadless areas in California for which the plaintiffs sought relief, the overall conclusions in the case are binding in States that are located in the Ninth Circuit. The net effect is that development activities on roadless areas in such States may be held up if appealed in administrative or judicial forums. This has, in fact, already happened in several instances, and has thrown a cloud of uncertainty over the development of some roadless areas, whereas development has occurred in others.

Soon after the completion of RARE II, the State of California brought suit against the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Final Environmental Impact Statement insofar as its consideration of wilderness in some 46 acres in the State of California was concerned.

In January 1980 Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in *State of California* v. *Bergland*, 483 F. Supp. 465 (1980), held that the RARE II Final Environmental Statement had insufficiently considered the wilderness alternative for the specific areas challenged. Judge Karlton enjoined any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values in accordance with the National Environmental Policy Act was completed by the Department of Agriculture. The Ninth Circuit Court of Appeals affirmed in District Court opinion in *California* v. *Block*, 690 F. 2d 653 in 1982.

The Wilderness Act of 1964 provides that only Congress can designate land for inclusion in the National Wilderness Preservation System. Since the Committee has, in the course of developing this bill, very carefully reviewed the roadless areas in Idaho for possible inclusion in the National Wilderness Preservation System, the Committee believes that judicial review of the RARE II Final Environmental Statement insofar as national forest system lands in Idaho are concerned is unnecessary. Therefore, the bill provides that the final environmental statement is not subject to judicial review with respect to national forest system lands in Idaho.

The Committee does wish to reemphasize that the sufficiency language in this Act only holds the RARE II EIS to be legally sufficient for the roadless areas in the State of Idaho and only on the basis of the full review undertaken by the Congress. Similar language will be necessary to resolve the issue in the other States.

Management and future wilderness consideration of roadless areas not designated as wilderness or wilderness study

The RARE II process during 1977–79 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act of 1976. That process requires that the forest land management plans be reviewed and revised periodically to provide for a variety of uses. During the review and revision process the Forest Service is required to study a broad range of potential uses and options including wilderness. In conjunction with the National Environmental Policy Act, NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System is one of the many options which must be considered during the planning process for those lands which may be suited for wilderness. The language of S. 2457 reconfirms this requirement. The Forest Service is presently developing the initial, or "first generation", plan for each national forest. These are the so-called "section 6" plans, they are targeted for completion by September 30, 1985. For the 12 national forests in Idaho some plans may not actually be completed and implemented until 1986 or later due to administrative problems including delay resulting from the cloud of the California lawsuit and the debate taking place as a result of pending legislation.

One of the goals of RARE II was to consider the wilderness potential of national forest roadless areas. The Committee believes that further consideration of wilderness during development of the initial plans for the national forest system roadless areas as defined by section 201, not designated as wilderness upon enactment of S. 2457 would be duplicative of the study and review which has recently taken place by both the Forest Service and the Congress. Therefore, the release language of S. 2457, provides that wilderness values of these areas need not be reviewed again during development of the "first generation plans." Moreover, the language provides that during development of, and prior to or during revision of initial plans, released areas need not be managed for the purpose of protecting their suitability for wilderness designation.

Beyond the initial plans lies the issue of when the wilderness option for roadless areas should again be considered. As noted, the initial plans are targeted for completion by September 30, 1985. The National Forest Management Act provides that a plan shall be in effect for no longer than 15 years before it is revised. The Forest Service regulations, however provide that a forest plan "shall ordinarily be revised on a 10-year cycle or at least every 15 years." (36 CFR § 219.10(g)). The language of S. 2457 tracks these regulations.

The bill, as reported, provides that the Department of Agriculture shall not be required to review the wilderness option until it revises the initial plans. By using the word "revision" the Committee intends to make it clear, consistent with NFMA and current Forest Service

regulations, that amendments or even amendments which might "result in a significant change" in a plan, would not trigger the need for reconsideration of the wilderness option and section 201 so provides. The wilderness option does not need to be reconsidered until the Forest Service determines, based on a review of the lands covered by a plan, that conditions in the area covered by a plan have changed so significantly that the entire plan needs to be completely revised.

A revision of a forest plan will be a costly undertaking in terms of dollars and manpower and the Committee does not expect such an effort to be undertaken lightly. Every effort will be made to address local changes through the amendment process leaving the revision option only for major, forest wide changes in conditions or demands.

For example, if a new powerline were proposed to be built across a forest, this would be accomplished by an amendment, not a revision, and therefore the wilderness option would not have to be reexamined. Likewise, the construction of new range improvements or adjustments in livestock allotments for permittees would not constitute a "revision". It is only when a proposed change in management would significantly affect overall goals or uses for the entire forest concerned, that a "revision" would occur. For example, the recent eruption of Mt. St. Helens, because it affected so much of the land on the entire Gifford Pinchot National Forest, including the forest's overall timber harvest scenario, would likely have forced a "revision" of the plan. Likewise, decisions to dramatically increase timber harvest levels on an entire forest or to change a multiplicity of uses in order to accommodate greatly increased recreation demands might force a "revision". In this regard, the Committee wishes to note, however, that in the vast majority of cases the 10–15 year planning cycle established by NFMA and the existing regulations is short enough to accommodate most changes. Conditions are highly unlikely to change so dramatically prior to 10–15 years that more frequent "revisions" would be required. For example, it would be hard to envision a scenario under which demands for primitive, semi-primitive or motorized recreation would increase so rapidly over an entire National Forest that the Forest Service would feel obliged to revise a plan prior to the normal 10–15 life span. Recreation demands might increase in a specific area or areas, but such demands could be met by amending the plan, as opposed to revising it.

Forest Service Chief Max Peterson has indicated that, in his view, most plans will be in existence for approximately 10 years before they are revised. The Committee shares this view and anticipates that the vast majority of plans will not be revised significantly in advance of their anticipated maximum life span absent extraordinary circumstances. The Committee understands and expects that with first generation plans to be in effect by late 1985, or slightly later, the time of revision for most plans will begin around 1995. In almost every case, the Committee, therefore, expects that the consideration of wilderness for these roadless areas will not be reexamined until approximately 1995. The Committee notes that administrative or judicial appeals may mean that many first generation plans are not actually implemented until the late 1980's, in which case plan revisions would be unlikely to occur until around the year 2000, or beyond. Or, if the full 15 years

allowed by NFMA runs before a revision is undertaken, the wilderness option may not in some cases be reviewed until the year 2000 or later.

The question has also arisen as to whether a "revision" would be triggered if the Forest Service is forced by the courts to modify or rework an initial plan, or if the Forest Service withdrew an initial plan to correct technical errors or to address issues raised by an administrative appeal. The Committee wishes to state in the most emphatic terms possible, that any reworking of an initial plan for such reasons would obviously not constitute a "revision" of the plan that would reopen the wilderness question. Rather, any such reworking would constitute proper *implementation* of the plan. The logic for the Committee's reasoning in this regard is that any such court ordered or administrative reworkings or modifications of a plan would come about to resolve questions related to the preparation and implementation of the plan in accordance with the requirements of NFMA and other applicable law. So such reworking or modification would not be a "revision" (which pursuant to NFMA and the implementing regulations is to be based on changed conditions or demands on the *land*), because a plan must be properly prepared and implemented before it can be "revised".

The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that the areas must be managed to preserve their wilderness attributes so these may be considered in the future. Such an interpretation would result in all roadless areas being kept in de facto wilderness for a succession of future planning processes. Such a requirement would completely frustrate the orderly management of nonwilderness lands and the goals of the Forest and Rangeland Renewable Resources Planning Act as amended.

To eliminate any possible misunderstanding on this point, the bill provides that areas not designated as wilderness need not be managed for the purpose of protecting their suitability for further wilderness review, prior to or pending revision of the initial plans. The Committee believes the Forest Service already has statutory authority to manage roadless areas for multiple use, nonwilderness purposes. It wishes to make clear, however, that study of the wilderness option in future generations of section 6 plans is required only for those lands which may be suited for wilderness at the time of the implementation of the future plans. Between the planning cycles, the uses authorized in the plan in effect can proceed until a new plan is implemented. In short, one plan will remain in effect until the second plan is implemented. For lands recommended for nonwilderness uses in future generations of plans there is no bar to management which may, as a practical matter, result in the land no longer being suited for wilderness. Thus it is likely that many areas studied for wilderness in one generation of plans may not physically qualify for wilderness consideration by the time the next generation of plans is prepared. As an example of this, the Committee notes that many areas studied for wilderness in RARE II and recommended for non-wilderness have already been developed since their administrative "release" in April of 1979.

Therefore, under this language, the Forest Service may conduct a timber sale in a roadless area and not be challenged on the basis that the area must be considered for wilderness in a future planning cycle.

Once a second-generation plan is implemented in accordance with applicable law including the National Environmental Policy Act, the Forest Service may, of course, manage a roadless area not recommended for wilderness designation according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still be suited for possible wilderness at the time of the third-generation planning process, the wilderness option would be considered at that time. In short, the wilderness option must be considered in each future planning generation if the particular land in question still possess wilderness attributes. But there is no requirement that these attributes be preserved solely for the purpose of their future evaluation in the planning process.

In short, this language meas that the Forest Service cannot be *forced* by any individual or group through a lawsuit, administrative appeal, or otherwise to manage lands not recommended for wilderness designation in a "de facto" wilderness manner. Of course, the Forest Service can, if it determines it appropriate, manage lands in an undeveloped manner, just as it can, if through the land management planning process it determines it appropriate, develop released lands. The emphasis here is that the Forest Service will be able to manage released lands in the manner determined appropriate through the land management planning process.

However, the language also provides that lands recommended for wilderness in future generations of plans shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law upon implementation of such plans.

The final issue addressed by the Committee in section 201 of S. 2457 pertains to the possibility of future administrative reviews similar to RARE I and RARE II. With the National Forest Management Act planning process now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Service take place only through that planning process, unless Congress expressly asks for other additional evaluations. Therefore, the legislation directs the Department of Agriculture not to conduct any further statewide roadless area review and evaluation of national forest system lands in Idaho for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

The Committee recognizes that this directive might technically be evaded by conducting such a study on some basis slightly smaller than statewide. The Committee is confident, however, that the Department recognizes the spirit as well as the letter of this language and that the Committee can expect there will be no "RARE III".

SECTION-BY-SECTION ANALYSIS

Title I—Findings, purposes, and wilderness designation

Section 101. This section contains the findings and purposes of the bill. It is the Committee's intent that certain national forest system lands in the State of Idaho which possess outstanding natural charac-

teristics, landform, wildlife, and locations be preserved as a part of the Nation's wilderness system to protect those values; and that lands not included in the National Wilderness Preservation System be managed for a wide variety of consumptive and non-consumptive uses.

Section 102. This section designates specific areas in the State of Idaho as wilderness. The Committee recommends that five hundred and twenty-six thousand sixty-four (526,064) acres of national forest system land in the State of Idaho be designated as components of the National Wilderness Preservation System, as follows:

(1) Selkirks-Canyons Wilderness consisting of 33,000 acres in the Panhandle National Forest. This proposed wilderness includes part of RARE II area No. 01125. It contains very rough topography with a number of peaks over 7,000 feet, including Parker Peak at 7,670 feet. The area contains important habitat for two species of threatened wildlife, the caribou and the grizzly bear;

(2) Salumo Priest Wilderness containing 14,678 acres in the Panhandle National Forest. This proposed wilderness is a part of RARE II area No. 01981. It is also contiguous to 27,400 acres of roadless lands in the State of Washington which is also being recommended for wilderness designation in S. 837 (The Washington Wilderness Act of 1984), as reported;

(3) Scotchman Peaks Wilderness containing 10,968 acres in the Panhandle National Forest. This proposed wilderness lies along the Idaho-Montana border and is contiguous to approximately 116,000 acres of roadless lands in the State of Montana. The area contains a variety of wildlife species, opportunities for outstanding recreation activities, and unique geologic features;

(4) Mallard Larkins Wilderness containing 30,578 acres in the Panhandle and Clearwater National Forests. This proposed wilderness is a part of RARE II area No. 01300. The area contains a matrix of timber, brushfields, sub-alpine meadows and rocky outcroppings. Mineral potential is believed to be low;

(5) Kelly Creek-Hoodoo Wilderness containing 124,500 acres in the Clearwater National Forest. This proposed wilderness contains most of RARE II area No. 1301, and was recommended for wilderness in the RARE II final environmental statement. The area contains significant stands of commercial timberland with high timber production potential, wildlife habitat, and important fish spawning and rearing habitat. The Lolo trail, a national historic trail, traverses the unit's southern boundary;

(6) Secesh Wilderness containing 109,000 acres in the Payette National Forest. The proposed wilderness was part of the RARE II area No. 04455 known as Lick Creek, and was recommended for wilderness designation in the RARE II final environmental statement;

(7) White Clouds Wilderness consisting of 145,970 acres of the Sawtooth National Recreation Area. This proposed wilderness has been managed as part of the NRA since August 22, 1972, under the provisions of P.L. 92–400. The Committee believes that the area merits designation as wilderness. However, the Committee does not intend that less restrictive management of the area will occur as a result of wilderness designation. The section explicitly states that as between P.L. 92–400 and the Wilderness Act of 1964,

the more restrictive provisions will apply. The Committee does not intend that the provisions of this section will affect, in any way, the value of any valid existing mineral rights which may have existed prior to August 22, 1972. (Refer to section 305 in the section-by-section analysis for further explanation);

(8) Worm Creek Wilderness containing 15,770 acres in the Caribou National Forest. This proposal wilderness was part of RARE II area No. 04179 consisting of 41,800 acres, of which 16,000 acres were recommended for wilderness designation in the RARE II Final Environmental Impact Statement; and

(9) Borah Peak Wilderness containing 41,000 acres in the Challis National Forest. This proposed wilderness is a part of the much larger (138,304 acres) Borah Peak RARE II area. The entire area was recommended for wilderness designation in the RARE II proposals. The smaller area of 41,000 acres has support of most interest groups.

Section 103. Provides for filing with appropriate House and Senate Committees, by the Secretary of Agriculture, official maps, and legal descriptions of each wilderness area designated by this Act; and further provides that such areas will be managed in accordance with the Wilderness Act of 1964 (78 Stat. 892).

Title II—Release of lands for multiple use management

Section 201 contains "release-sufficiency" provisions.

An analysis is provided in the Committee Amendments section.

Title III—Miscellaneous provisions

Section 301. This section directs the Secretary to review Forest Service policies, practices and regulations regarding livestock grazing in national forest wilderness areas in Idaho to insure that they are consistent with the intent of Congress expressed in the Wilderness Act of 1964. Livestock interests have expressed the concern that wilderness classification will prompt the Secretary of Agriculture, through the Forest Service, to cancel or curtail livestock grazing in wilderness. Specific language was included in the Wilderness Act of 1964 to provide for the continuation of livestock grazing. The Language in section 301 re-affirms that intent.

Section 302. This section recognizes the established rights of the State of Idaho to control and manage the water, fish and wildlife resources of the State. Further, it directs the Forest Service to take necessary action, to prevent degradation of water quality.

Section 303. This section prohibits buffer zones or protective perimeters around wilderness areas in the State of Idaho.

Section 304. This section provides for the continued assessment of mineral potential in wilderness areas. The committee re-affirms the previously expressed intent of the Congress that the Nation needs to have a thorough inventory of its mineral and energy resources, including those in units of the National Wilderness Preservation System.

Section 305. This section provides three alternative means by which valid mining claims may be removed from the White Clouds Wilderness Area. First, the Secretary of the Interior would be authorized to exchange federally owned minerals of approximately equal value in any State for the interest of the mineral owner in the wilderness area.

Secondly, at the election of the mineral interest owner, the Secretary would determine the present value of that interest and grant the owner a monetary credit of approximately equal value which may be used to pay mineral bonuses, rentals or royalties to the United States. To be fair to such owners who may not have other Federal mineral production, these credits may be sold to others who could utilize them. Finally, the mineral interest owner may choose to relinquish his interest in the wilderness and receive compensation for the amount of funds expended in discovering and developing the mineral interest. The Secretary would be expected to require the owner to substantiate such expenditures with adequate proof and supporting documents.

The Secretary would be expected to determine the value of mineral interests in the wilderness to be exchanged by utilizing data available from the owner and other data available to him or which could be developed by drilling. The value should be based upon the replacement cost of the mineral deposit in the ground less estimated costs of mining, processing, transportation, and environmental compliance costs. However, because the rights to these mineral interests were established prior to the time restrictions on access and production were imposed by the Sawtooth National Recreation Area Act and by the wilderness designation under this legislation, the mineral values should be determined without reference to such restrictions.

Section 305 is believed to be necessary in this legislation to be certain of protecting the wilderness values of the White Clouds area and to resolve long-standing uncertainty and controversy over the area. As early as 1863, gold discoveries touched off intensive mining activities around the area. Prior to 1972 there was a dramatic increase in activities relating to exploration activities by ASARCO, Incorporated and other mining interests. These interests proceeded in good faith under the law to explore those public lands in the White Clouds, discovered molybdenum ore deposits, and proceeded with preparations to mine those deposits. The consequent controversy resulted in the enactment of the Sawtooth National Recreation Area Act which effectively prevented any such mine development. Equity and the United States Constitution require that these property rights be recognized and be compensated for if they cannot be exercised.

Although the Sawtooth National Recreation Area Act placed severe restrictions on mining activities in the area, it is possible that attempts could be made to commence such activities. Without the provisions of section 305, this would renew the White Clouds controversy and harm the environmental values which Congress decided in 1972 should be protected. The alternative to section 305 will be costly litigation to determine the authority to condemn the mineral interests and the compensation to which the mineral owners are entitled. Section 305 merely allows the same goals to be accomplished at less cost. The mineral values will be established through negotiation and compromise while avoiding adversarial proceedings and costly litigation. A condemnation award would require the immediate payment of the amount awarded while section 305 will involve no direct cash expenditures and the 10 percent annual maximum application of the monetary credits will equalize their impact over years. Finally, section 305 provides the further alternative to condemnation by authorizing the mineral owner to elect to be reimbursed only for his exploration expenditures rather than to seek the full value of the deposit.

Section 306. This section provides for the continued use of aircraft and aircraft landing fields where such use was an established practice prior to passage of this Act. The Wilderness Act gives the Secretary of Agriculture the discretion to allow such use to continue. The Committee intends that the Secretary should allow such established use to continue subject to reasonable regulation. The Committee further intends that the Secretary shall not close or render unserviceable (i.e., effectively close), any airstrip in regular use on national forest lands on the date of enactment for reasons other than extreme danger to aircraft landing or taking off from such airstrips. Even closings for the reason of "extreme danger to aircraft" could not occur without the express written consent of the agency of the State of Idaho charged with evaluating the safety of backcountry airstrips. This will help assure the continued access by air of the remote and otherwise unaccessable stretches of these wilderness lands.

Section 307. This section requires the Secretary of Agriculture to cooperate with the Secretary of the Interior, and the agencies of the State of Idaho, in conducting an inventory of the cabins and other structures within the new wilderness. This inventory is to be completed within 2 years from the date of enactment of this Act. Upon completion of the inventory, the Secretary is to forward, to the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee, a report on the location of these cabins and other structures, their historic significance (if any), their present condition, and recommendations as to what should be done with these buildings and facilities. The structures are also to be surveyed to determine if any qualify for inclusion on the National Register of Historic Places. These provisions are a response to the Forest Service's past policies of burning old cabins and destroying deteriorating structures as a means of "restoring" these wilderness lands to their "natural condition". Although the Forest Service has currently stopped burning these old trapper and homestead cabins, this section imposes a moratorium on the destruction or significant alteration of any old cabin or other structure on national forest land until the inventory required by this section is completed and the corresponding report is submitted to the two Congressional committees.

COST AND BUDGETARY CONSIDERATION

The following estimate of costs of this measure have been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 7, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2457, the Idaho Forest Management Act of 1984, as ordered reported by the Senate Committee on Energy and Natural Resources, May 2, 1984.

This bill adds 526,064 acres of land in Idaho to the national wilderness preservation system. Based on information from the National Forest Service (NFS), it is estimated that additional costs to the fed-

eral government for surveying, planning and related activities necessary to implement the wilderness withdrawals will be approximately $500,000 over the five fiscal years beginning with 1985.

According to the provisions of the National Wilderness Preservation System Act, all timber in areas designated as units of the national wilderness preservation system is removed from the timber base of the national forest in which it is located. This results in a reduction of the annual potential yield of the forest. No significant annual loss of timber receipts is expected to result from this bill.

Section 305 of this bill directs the Secretary of the Interior to acquire mineral interests on affected lands within six years of the date of enactment of this bill by exchange, issuance of monetary credit, or payment of an amount equal to funds expended by existing owners. The cost to the government would include both the acquisition cost and any rent and royalty payments the government would have received in the absence of this bill. No estimate of the budget impact of this provision can be made at this time because it is impossible to predict whether these interests will be acquired by exchange, payment, or the issuance of monetary credits. Current estimates of the value of mineral deposits in affected areas range up to $1.5 billion. However, any credits issued to acquire these mineral deposits would be reduced by the estimated cost for removal of these minerals.

All roadless areas in national forests not designated as wilderness or expressly excluded from further review by an act of Congress are currently being reevaluated for their suitability for inclusion in the national wilderness preservation system. S. 2457 removes from this review all roadless areas in Idaho included in the Department of Agriculture's second Roadless Area Review and Evaluation (RARE II). This will result in a small savings in land management planning costs over the next three years.

Enactment of this bill would not significantly affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2457 as reported. S. 2457 would designate certain national forest system lands in the State of Idaho for inclusion in the National Wilderness Preservation System, would release other forest lands for multiple-use management, and for other purposes.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 2457.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth Executive agency recommendations relating to S. 2457 is set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., May 14, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 2457 as reported on May 2, a bill "To designate certain National Forest System lands in the State of Idaho for inclusion in the National Wilderness Preservation System and to release other forest lands for multiple use management, and for other purposes."

The Department of Agriculture supports enactment of S. 2457, however, only if amended to delete or revise part of the special management direction in Title III, especially the provisions in section 305. We strongly oppose those provisions in section 305 which mandate Federal acquisition of mineral rights in the proposed White Clouds wilderness.

Title I of S. 2457 would designate nine wildernesses, totaling 526,000 acres, in the State of Idaho. One of these proposed wildernesses, the White Clouds, is presently managed under provisions of the Sawtooth National Recreation Area (NRA) designated by P.L. 92–400. Title II, as amended, provides that National Forest System lands in the State of Idaho that were reviewed in RARE II, or evaluated in listed unit plans, or roadless lands which are less than 5,000 acres would be released for multiple uses other than wilderness. Further review of the wilderness suitability would not be done again until Forest plans are revised, which would ordinarily occur every 10 years, or at least every 15 years.

Title III includes special provisions for review of grazing use within the designated wildernesses, protection of existing water rights, watershed protection, continued State authority for wildlife and fish management, and prohibition of wilderness buffer zones. It also provides direction to continue mineral inventories in all proposed wildernesses. Provisions are made in section 305 that would give the Secretary of the Interior authorization to acquire existing valid mineral rights in the proposed White Clouds wilderness. As written, this acquisition of mineral rights would be required upon request by the mineral interest owner. Title III also has a provision that requires an inventory be made to develop recommendations for the management of cultural resource sites in wildernesses designated by the bill.

The Administration supports the designation of the nine proposed wilderness in S. 2457. These proposed wildernesses are the Selkirks-Canyon, Salmo Priest, Scotchman Peaks, Mallard Larkins, Kelly Creek-Hoodoo, North Lick Creek, Worm Creek, Borah Peak and White Clouds. We support the amendment that changes the name of the North Lick Creek proposal to the Secesh Wilderness proposal since that name more appropriately describes the area. Most of these

proposals differ somewhat from our RARE II recommended boundaries; however, with the exception of some minor boundary modifications, we support the addition of these areas to the National Wilderness Preservation System as proposed.

We will be able to support designation of the entire proposed White Clouds wilderness if the proviso to section 102(a)(7) makes it clear that such designation would not affect the validity of existing rights which may exist under the mining laws, subject to the designation of the Sawtooth National Recreation Area on August 22, 1972, and would not increase the value of those rights from that which may exist under these statutes. We recommend that the proviso be revised as follows: "*Provided*, That subject to the provisions of the said Public Law 92–400, nothing in this Act shall affect valid existing rights under the mining laws of the United States."

With this clarifying change, we can support the portion of the White Clouds proposal north of Germania Creek, since the legislation would in no way change the existing rights of mineral claimants under the mining laws, or the powers of the United States to reasonably regulate the exercise of mining rights under the Sawtooth National Recreation Area Act and other applicable laws and regulations.

We strongly oppose the provisions of section 305 which require Federal purchase of mineral claims in the area designated as the White Clouds. We have a number of major objections to section 305—

1. The requirement that the Federal Government purchase mining claims is a major departure from the standard practice under the Wilderness Act and National Recreation Area legislation through which millions of acres have been designated subject to valid existing rights.

2. The acquisition is upon application and at the discretion of the mineral interest owner. Mandated acquisition unduly increases the present owners' negotiating position in seeking compensation. Any decision to acquire mineral interest should be the decision of the Secretary of Agriculture based on whether possible mineral development would be significantly or substantially in conflict with the Sawtooth National Recreation Area Act.

3. The combination of mandated acquisition and reference to conditions existing prior to August 22, 1972, in the proviso to section 102(a)(7) could afford claimholders the opportunity to argue that the provisions of Public Law 92–400 do not apply for purposes of valuation of their claims. Value based on less stringent environmental restrictions prior to enactment of Public Law 92–400 could provide a windfall profit to the ASARCO Corporation and holders of smaller claims at the expense of the Federal taxpayer.

4. The cost implications of section 305 are unknown. The Federal Government should not be obligated to acquire lands or interest in lands where the value is unknown and could be substantial.

5. The procedural requirements of section 305 are administratively infeasible to implement because the application for Federal acquisition is at the discretion of the mineral interest owner, the equal value for exchange or monetary credit would be very difficult to determine, a determination of owner funds expended would be difficult to document, and it is not clear what would occur if specified time constraints could not be met.

The Administration did not accept mandated purchase with respect to phosphate interests on the Osceola National Forest in Florida and cannot accept it here. We cannot support S. 2457 unless section 305 is deleted.

We have other concerns with the special provisions contained in Title III. Some of the provisions appear to restate existing authority with new words, while other provisions are either superfluous or are not appropriate for the areas designated in the bill.

Section 302, subsection (a), restates existing authority regarding the continuation of existing water laws and fish and wildlife management responsibilities, then provides additional direction in subsection (b) concerning sanitary facilities and motorized access. We do not believe special direction is necessary. Section 4(d)(7) of the Wilderness Act already deals with water rights. We have adequate authority to carry out management responsibilities of the watershed for health and safety purposes.

Section 306 allows for established aircraft landings and facilities to continue within designated wildernesses; however, it does not appear to be a necessary provision. To our knowledge there are no landing fields within the boundaries proposed. Use of aircraft, where such uses are already established, may be permitted to continue under the basic provisions of the Wilderness Act.

Even though we support the intent of section 307, with respect to inventory of cabins and structures within the designated wildernesses, we do not support inclusion of a special provision in the bill. It is our policy to protect these structures, as provided for in the archaeological and historical protection statutes, and carry out inventories throughout the National Forest System. Our capability to accomplish this inventory is limited by personnel and funding.

The provision to complete the inventory within designated wildernesses within 2 years would adversely impact our ability to complete these inventories on areas outside wilderness. Structures within wilderness areas generally are less subject to damage or loss. We, therefore, do not recommend a special priority for inventory of structures within the wilderness.

We support the release provisions of Title II as amended. We are pleased that compromise statutory language has been developed that—

1. Provides for release of roadless lands reviewed in RARE II, roadless lands evaluated in unit plans and roadless areas less than 5,000 acres in size.

2. Provides that review of lands, except as noted in the legislation, has been completed for the purposes of the initial plans and future reviews will ordinarily occur only on a 10 to 15-year cycle.

3. Provides that management of lands under one plan will continue until a revised plan is adopted and that roadless areas need not be managed to protect their wilderness suitability prior to or during revision of a plan.

4. Clarifies that review of roadless areas is only required when plans are revised and not when an amendment occurs.

We estimate that surveying, planning, and related activities necessary to implement the wilderness designation in this bill would cost approximately $500,000 over the next 5 year.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD E. LYNG,
Acting Secretary.

The requested legislative report from the Department of the Interior had not been received at the time of filing of this report. A copy of the legislative report will be made available for the information of the Senate upon receipt.

CHANGE IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 2457, as reported.

○